

A. PENALTY COMPUTATION WORKSHEET**COUNT VI**

Company Name	Philip Services Corporation/Burlington Environmental, Inc. (WAD 00081 2909)
Address	734 Lucile Street
	Seattle, WA
Requirement Violated	Permit Condition VII.B.3 and VII.J.(i), (j), (k) and (m): Failure to provide required information on well construction diagrams on two occasions for the wells which were installed in 1998.

PENALTY AMOUNT FOR COMPLAINT

1.	Gravity based penalty from matrix	\$8,798.90 x 2 = \$17,597.80
	(a) Potential for harm	moderate
	(b) Extent of Deviation	moderate
2.	Select an amount from the appropriate multiday matrix cell	not applicable
3.	Multiply line 2 by number of days of violation minus 1 [or other number, as appropriate (provide narrative explanation)]	
4.	Add Line 1 and line 3	\$17,597.80
5.	Percent increase/decrease for good faith	0
6.	Percent increase for willfulness/negligence	0
7.	Percent increase for history of noncompliance	0
8.	Total Lines 5 thru 7	0
9.	Multiply line 4 by line 8	
10.	Calculate economic benefit	0

11.	Add lines 4, 9 and 10 for penalty amount to be inserted in the complaint.	\$17597.80
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NARRATIVE EXPLANATION
COUNT VI

1. Gravity Based Penalty

(a) Potential for harm : moderate

The potential for harm was determined to be “moderate”. Respondents have caused a significant potential for harm to the RCRA program by failing to include the following information on the well construction diagrams:

- d. casing and screen joint type
- e. placement method of filter pack material
- f. placement method of sealant material
- g. well development procedures

The failure to provide well-construction details has a significant negative impact on the RCRA Facility investigation (RFI) decision-making process because of increased uncertainty regarding the representativeness of aquifer testing results, water-level measurements, and groundwater chemical results. The failure of Respondents to document well development procedures on the well construction diagrams also creates significant uncertainty regarding the representativeness of data collected as part of the pre-corrective action monitoring program. For example, if wells are not properly developed, siltation can build up in the well, reducing the well’s ability to produce representative groundwater samples. While it is probable that the wells were developed shortly after construction, there is no documentation regarding development of the wells with the exception of wells CG-11-I and CG-12-I. Refer to the penalty narrative explanation for Count VII for further discussion on well integrity testing and well development deficiencies.

The high end of the matrix cell was determined to be appropriate due to the high level of sophistication of Respondents’ Facility and the nature and size of Respondents’ business as a large TSD Facility handling large volumes of hazardous waste.

(b) Extent of Deviation: moderate

By failing to include pertinent information on well construction diagrams, Respondents have deviated significantly from the permit requirements. The Permit requires submission detailed

logs of each well. Some of the permit requirements regarding well logs were met as intended, but other requirements were not. Respondents' response to EPA's NOV states that the well logs were submitted in a preliminary draft form and were going to be revised for the RFI. However, it is not a technically acceptable approach to significantly alter well construction diagrams and boring logs years after they were originally prepared because of a large potential for error and standard drilling practice does not dictate revisions.

Furthermore, a review of the revised well construction diagrams and boring logs provided as Part I of Respondents' response to EPA's NOV, also shows that the revised well installation diagrams and lithologic logs for wells CG-11-I and CG-12 I are incorrect. Information contained in the 1999 North Field intermediate well installation report and field observations made by EPA representatives during installation of the wells are inconsistent with the revised boring logs. EPA has also commented previously on errors and inconsistencies in lithologic logging procedures in 1999. The inaccuracies and omissions in Respondents' response to EPA's NOV regarding the well installation diagrams and lithologic logs are indicative of a general data quality problem. Refer to the penalty explanations for Counts V and IX for further discussion on data quality deficiencies.

(c) Multiple/Multi-day:

Information indicates that the violation occurred 19 times during 1991 and twice in 1998. The penalty is calculated considering only the 1998 violations because the 1991 violations occurred prior to August 31, 1996. Penalties for two separate (multiple) omissions were calculated and combined into one count.

2. Adjustment Factors

(a) Good faith: At the time the proposed penalty was calculated, there was no evidence to support good faith as a contributing factor for this count.

(b) Willfulness/negligence: At the time the proposed penalty was calculated, there was no evidence that would support willfulness or negligence as contributing factors for this count.

(c) History of compliance: At the time the proposed penalty was calculated, there was no information to indicate a history of noncompliance for Respondents that would support an adjustment to the penalty based on this factor.

(d) Ability to pay: At the time the proposed penalty was calculated, there was no evidence to support an adjustment based on this factor. Respondents may present any new information pertinent to this factor after the issuance of the Complaint.

(e) Environmental project: This factor is not applicable prior to filing of the Complaint. After issuance of the Complaint, EPA will evaluate any environmental projects proposed by Respondents in the context of settlement negotiations.

(f) Other unique factors: There was no information to indicate any unique factors that would impact the proposed penalty. EPA will evaluate any new information on such factors that may be brought to light after the issuance of this Complaint.

3. Economic benefit: It has been determined that no economic benefit was realized by Respondents for failing to include certain information on a drillers log. The avoided cost of this omission would have amounted to the labor time it took to write four short phrases on a drillers log. Since the time was taken to fill out most of the well log's required information, the cost of the omission would have been minimum and would not affect the overall cost.
4. Recalculation of penalty based on new information: At the time of the proposed penalty calculation, no new information was available to warrant a recalculation of the penalty amount. EPA will evaluate any new information presented by Respondents after issuance of the Complaint to determine whether the penalty should be recalculated.